

Exhibit 8

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **ORAL EXAMINATION OF DANIEL DERENDA**

13 **APPEARING REMOTELY FROM**

14 **BUFFALO, NEW YORK**

15
16
17 November 10, 2021

18 At 9:00 a.m.

19 Pursuant to notice
20

21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

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~~DANIEL DERENDA~~

1 MR. QUINN: I think that was the whole
2 answer.

3 Q. Okay. Thank you. What was the main mission
4 of the Strike Force?

5 MR. QUINN: Object to the form. You can
6 answer.

7 A. The main mission was to -- they would go after
8 guns, drugs, intelligence gathering and again
9 to supplement the districts in areas where we
10 had problems. Again, they were not tied to
11 the radio. They were to be proactive and they
12 were out to be on the street depending on
13 circumstances that were going on throughout
14 the city.

15 Q. And the document that I would like to show you
16 -- just one second. I'm going to mark as
17 Exhibit 1 a document that was produced to us
18 with Bates number COB060319. It says at the
19 top Strike Force Mission.

20 Mr. Derenda, do you recognize this
21 document?

22 A. I do.

23 Q. Did you author it?

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1 A. I did.

2 Q. And does this document accurately describe the
3 mission of the Strike Force?

4 A. Yes, it does.

5 Q. And you were directly involved in the creation
6 of the Strike Force, right?

7 A. Correct.

8 Q. Why did you create the Strike Force?

9 MR. QUINN: Object to the form.

10 A. Actually, before the Strike Force we had a
11 unit called the MRU which was basically the
12 same mission. Very successful. It had a
13 shelf life. The officers assigned there were
14 very proactive and they started to not work as
15 hard so we got rid of the unit and we reformed
16 the Strike Force Unit maybe -- I don't know
17 how much time in between.

18 But again, we did it to target areas of
19 high crime and, again, to supplement the
20 districts and to concentrate on problems.

21 Q. Okay. And when you say very successful, how
22 was that success measured?

23 MR. QUINN: Object to the form. You can

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1 Do you need me to move down?

2 A. Yes.

3 Q. Okay. Just going to the end of Section B.

4 Then we're also going to go to the next page,
5 Page 4 of the document. It's COB003845 and
6 we're going to look at letter G which states,
7 drug interdiction, assisting BPD investigators
8 in criminal investigations and the prevention
9 of legal or criminal activity on or near BMHA
10 property or involving BMHA residents shall be
11 the primary focus of the Buffalo Police
12 housing unit.

13 Would you agree with that statement,
14 Mr. Derenda?

15 MR. QUINN: Object to the form.

16 A. I would agree that they were there to do all
17 crime. Again, supplemental patrols to be in
18 there and they did gather intelligence and
19 they did help with different investigations
20 and they did help with different units. I did
21 not write this document.

22 Q. Now, the housing unit had a substantial amount
23 of vehicle and traffic reports near the BMHA

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1 property, didn't it?

2 MR. QUINN: Object to the form. You can
3 answer.

4 A. I don't recall numbers of what they did or
5 didn't do.

6 Q. Would it surprise you to learn that the ticket
7 data in this case shows that the housing unit
8 issued 20 percent of all the tickets issued by
9 the BPD?

10 A. It wouldn't surprise me for the reason that
11 they're not tied to the radio like other
12 officers are. The housing unit, the Strike
13 Force, the MRU prior to them, their main
14 mission was to be proactive, to be out doing
15 policing and they were expected to again be
16 very proactive so I guess, no, it wouldn't
17 surprise me.

18 Q. Would you say that vehicle and traffic
19 enforcement was one of the primary job duties
20 of the housing unit?

21 MR. QUINN: Object to the form. You can
22 answer.

23 A. Would it be a primary job? Again, they're out

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1 Once I became commissioner MRU
2 disappeared and we disbanded the unit and we
3 re-formed the Strike Force. I don't know how
4 many years in between. I didn't have -- it
5 was no longer my job to be assigning them to
6 different locations. You have deputy
7 commissioner of operations. Lockwood overseen
8 the housing. We put him in charge of housing,
9 Strike Force and the schools because we put
10 him all together so he overseen those units
11 and, generally speaking, he would assign them
12 where they would be.

13 Occasionally maybe I would chime in
14 based on something, based on somebody
15 requesting that I knew about, but the
16 day-to-day stuff I didn't handle. I had too
17 many other things on my plate that I didn't
18 have years before.

19 Q. Now, you expected Strike Force officers to
20 issue a lot of traffic tickets, right?

21 A. I expected Strike Force officers to be
22 proactive and out doing their job making
23 arrests, writing summonses, writing parking

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1 tickets, writing city ordinances to be visible
2 and out doing their job proactive, correct.

3 MR. QUINN: Form to the last question.

4 Q. And you mentioned a number of kinds of things
5 you expected them to do; summonses, parking
6 tickets, city ordinances.

7 What are city ordinances?

8 A. City ordinance could be anything from whether
9 -- high grass was one of them. We used to
10 have specific details and walk through
11 neighborhoods writing summonses based on city
12 ordinances. Loud music, high grass, whatever
13 it may be, and the purpose for that was to get
14 officers out of their cars walking down the
15 streets, getting back to what we talked about,
16 high visibility.

17 So when they're out doing something,
18 when they're out walking, when they're out
19 stopping vehicles for traffic violations,
20 they're highly visible and I believe that has
21 a major effect in reducing overall crime and
22 other things.

23 Q. When you felt that Strike Force officers had

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1 low production you let them know, didn't you?

2 MR. QUINN: Object to the form.

3 A. If I seen a report and I seen that they
4 weren't doing anything, so if you have ten
5 officers working on a shift and you don't see
6 any arrests and there's no summonses, then
7 they're telling me they're not out doing what
8 they need to be doing, so yes, I would let
9 somebody know if I didn't think they were
10 being out there.

11 Again, when you're not tied to the radio
12 and you're not answering calls you have a lot
13 of time to be proactive and enforce traffic
14 laws, do other things and when you're not --
15 again, I always had the philosophy of what
16 gets measured gets done, so they were forced
17 to do reports every shift and you can see if
18 they're doing things or they're not doing
19 things and there's times depending on holidays
20 or whatever you'd see low numbers because of a
21 couple of reasons.

22 Probably low manpower and people are
23 home and not driving and nobody is out and

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1 gets recorded gets attention, so if people
2 know you're watching what they're doing, they
3 tend to do more work.

4 Q. What is a plate reader?

5 A. The automatic plate readers. So they're on
6 patrol vehicles. Basically a license plate
7 reader. A license will go by and it scans --
8 it automatically scans cars going by.

9 It will tell you if a vehicle is stolen.
10 It will tell you if the vehicle is not
11 registered. Possibility of an unlicensed
12 driver. If that car is registered to somebody
13 on a warrant, it automatically pops up and
14 they can scan cars going by at a high-speed,
15 whatever. Just automatically scans everything
16 going by.

17 Q. So he says that the plate reader was -- since
18 the plate reader was fixed all the numbers
19 have increased, impounds most notably.

20 A. And --

21 Q. Go ahead.

22 A. Finish the question.

23 Q. Please say what you were going to say.

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1 A. So when a plate reader is fixed, the plate
2 reader -- they're telling you the car is not
3 registered automatically as you're driving.
4 Screen is changing colors and telling you of
5 violations meaning, like I said, it will tell
6 you if the vehicle is stolen. It will tell
7 you if the person who owns the vehicle is on a
8 warrant. It will warn you. It will tell you,
9 yeah, if it's not registered, expired, no
10 insurance.

11 It will automatically do that. That's
12 what the plate readers do, so with them being
13 fixed I would believe the numbers would
14 increase over the summonses because I'm sure
15 many summonses were written off those plate
16 readers.

17 Q. He says that is a source of concern with the
18 m.o.p., but the plate reader makes it a no
19 brainer. Can you explain what you mean?

20 A. The source of the concern with the m.o.p.?

21 MR. QUINN: Form.

22 A. I don't know what he means in that context
23 going back to the time. I don't recall, but

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1 the plate reader makes it a no brainer. So
2 the plate reader is giving you information
3 with which I guess makes it a no brainer to
4 either, A, pull the vehicle over, write it up
5 or do whatever.

6 So again, I believe with plate readers
7 the numbers go up significantly.

8 Q. And I'm going to mark as Derenda 18 an email
9 COB216566. It's a two-page document.

10 A. Can you blow it up a little bit please.

11 Q. How is that?

12 A. That's good.

13 Q. So this is an email from you to Sally Blersch.
14 Who is Sally Blersch?

15 A. I want to think she's a lieutenant. I don't
16 remember exactly what she did for us.

17 Q. Okay. And it looks like you're sending her
18 the information that's compiled for CitiStat?

19 A. Correct.

20 Q. And then it looks like if we go down this is
21 the information that would be provided to
22 CitiStat, correct?

23 A. Apparently. Apparently.

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1 through these numbers that are reported here;
2 arrests, traffic summons, impounds, quality of
3 life summonses, parking tags?

4 A. I measured my progress with the yearly UCR
5 numbers with drops in overall crime is how I
6 measured my progress overall. My success I
7 believe was because we were able to reduce
8 crime by 40 percent overall.

9 MR. QUINN: Object to the form of the
10 last question.

11 Q. I have heard you say what gets measured gets
12 done. And was that a philosophy that your
13 subordinates were familiar with? Was that
14 something you communicated to the people who
15 work for you?

16 MR. QUINN: Form.

17 A. Well, I communicated to the people that worked
18 for me. When I say what gets measured gets
19 done, daily reports, tell me what you've done.
20 When you make somebody do activities, reports,
21 you make whatever, they know you're watching
22 to make sure things get done, so what gets
23 measured gets done.

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1 When you go back to numbers of arrests
2 and summonses, everything, that was only a
3 part of overall policing strategies to drive
4 down numbers. Everything from a camera system
5 to block club meetings to Text a Tip, to all
6 kinds of things all led to that big decrease
7 in crime, but I believe Strike Force making
8 arrests and people out, high visibility,
9 everything leads to the point of reducing
10 crime.

11 Strike Force was just a piece of that
12 puzzle to help do that but, again, what gets
13 measured gets done. I want people to know
14 even at my position as commissioner of police
15 or deputy commissioner that I'm watching to
16 make sure people are working, period.

17 Q. And one way that your officers could increase
18 their production was by writing multiple
19 tickets in a single stop, correct?

20 MS. MOYER: Form.

21 A. Assuming they wrote multiple tickets in a
22 single stop and part of that I believe is due
23 to two things. Well, the plate reader is one

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1 way, but the other thing, when tickets became
2 automated, meaning when I was a patrol officer
3 way back when and I wrote a ticket I would
4 have to physically handwrite a ticket and go
5 through it and so you might write somebody one
6 ticket, you might write them two.

7 However, when it became automated and
8 they take your driver's license and scan it
9 and everything gets populated and now a person
10 that might have done five violations at one
11 point, if you had to handwrite them maybe
12 you're not going to write five tickets, but I
13 believe with a press of a button, they're
14 printing out tickets and I believe that was a
15 big reason for the increase in the number of
16 summonses over the years.

17 Q. Did the BPD have a written policy that covered
18 the issuance of multiple tickets?

19 A. Can you repeat that?

20 Q. Was there a written policy that covered
21 issuing multiple tickets in a single stop?

22 A. I don't believe there was, but I know people
23 did write multiple tickets and I believe

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1 that's what -- again, that's the reason. If
2 they have to physically handwrite them I don't
3 think they would have wrote as many, but
4 because everything became automated it became
5 so much easier for them to do so --

6 Q. Did you ever communicate to Strike Force that
7 you expected them to write multiple tickets as
8 part of the zero tolerance policy?

9 A. It gets communicated in that directive. If
10 you go back to the roadblock directive as far
11 as that, that you should write everybody for
12 every violation equally, so that is the
13 directive there, but did I ever put out that I
14 need people to go out and do their job and
15 write summonses and make arrests? I'm sure
16 all the time.

17 Q. Did you specifically provide direction around
18 multiple ticketing?

19 A. Not that I recall. I don't remember if I did
20 or I didn't.

21 Q. And you never said anything to discourage them
22 from issuing multiple tickets?

23 A. I think at one point some people were writing

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1 multiple tickets for tinted windows, front and
2 back or whatever. I sort of recall telling
3 them that no, you can't do that. But I don't
4 remember specifically. Again, I just don't
5 recall to who or what if there were other
6 cases.

7 Q. So you're saying you need to leave by 1:00?

8 A. I have to pick up my daughter at 1:20.

9 MS. WILNER: We are not going to finish
10 by 1:00. Rob, what do you want to do?

11 MR. QUINN: I mean, I sort of expected
12 that we would do two days as you outlined, so
13 we can reschedule a second day now or you can
14 send me an email of your availability, whatever
15 you think.

16 MS. WILNER: Okay. Do you want to keep
17 going until 1:00 now and then we'll do the rest
18 on the second day?

19 MR. QUINN: Up to you.

20 MS. WILNER: Or are you wanting to break
21 sooner than 1:00?

22 THE WITNESS: If we can do ten to 1:00
23 I'd be happy with that.

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1 Q. So I'm marking as Derenda 19 a graph that we
2 created based on BPD ticketing data. I don't
3 think that you would have seen this before, so
4 feel free to take a few minutes to look at it.
5 Can you see it?

6 A. Yes, I can see it.

7 Q. And the graph depicts the number of tickets
8 issued in a single stop by various units of
9 the Buffalo Police Department between 2012 and
10 2018 and the units depicted the Strike Force
11 which is in yellow, the housing unit which is
12 in red and the rest of the Buffalo Police
13 Department which is in green.

14 And if you look at what the rest of the
15 Buffalo Police Department did throughout the
16 time period, their ticketing was consistent at
17 about one and a half to two tickets per
18 incident throughout the entire time period.
19 Do you see that?

20 A. Yes.

21 Q. The yellow line is representing the Strike
22 Force ticketing and they also at the beginning
23 were issuing around two tickets per incident,

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1 but starting in June 2015 they began issuing
2 three to five tickets per incident. Are you
3 with me?

4 A. Yes.

5 MR. QUINN: Objection. I mean, we're
6 just looking at this graph and --

7 MS. WILNER: Right. We're making sure
8 that we're on the same page about what the
9 graph is showing.

10 MR. QUINN: Okay. Thank you.

11 Q. The red line is the housing unit that shows
12 that the ticketing rates rose even faster than
13 those of the Strike Force. They were
14 averaging five to six tickets per incident by
15 the later part of the time period, 2017 and
16 2018. Agreed?

17 A. It appears to be such.

18 Q. And do you have any reason to think that this
19 isn't accurate?

20 MR. QUINN: Form.

21 A. I have no reason to believe it's accurate or
22 not accurate.

23 Q. Were you aware at the time that the housing

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1 unit and the Strike Force were engaging in
2 more multiple ticketing than the rest of the
3 Buffalo Police Department?

4 MR. QUINN: Form.

5 A. I would expect them to be engaged in more
6 ticketing because, again, they're out there
7 being proactive, not tied to radios and I
8 believe it probably would show -- this graph
9 would probably show a correlation as to when
10 they were -- tickets became automated.

11 I'm not sure what year that was, but I
12 will bet that's a big factor in why you see
13 more tickets being issued.

14 Q. But when tickets became automated the entire
15 Buffalo Police Department had access to that
16 automated ticket software, correct?

17 A. Correct.

18 Q. And from what this graph is showing is that in
19 each stop the Strike Force and the housing
20 units are issuing significantly more tickets
21 at the stop than the other units of the BPD?

22 A. That's what it appears to show.

23 Q. Were you aware at the time that the Strike

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~~DANIEL DERENDA~~

1 Force and the housing unit were issuing more
2 tickets in a single stop than other parts of
3 the Buffalo Police Department?

4 MR. QUINN: Form.

5 A. Was I aware? I'll make the assumption that,
6 again, the normal officers in patrol never
7 wrote a lot of tickets to begin with. They
8 have so many other things going on with call
9 after call, whatever. They're not doing daily
10 activity reports.

11 When you have Strike Force and you have
12 housing who are doing daily activity reports,
13 what gets measured gets done, and they know
14 you're reviewing numbers and now they have an
15 automated system, I would expect that they're
16 going to start writing more multiple tickets
17 and apparently they did.

18 Q. I will mark as Derenda 20 another graph that
19 we created based on BPD ticketing data.
20 Again, this isn't something you would have
21 seen before, so feel free to take a look at
22 it. Are you able to see it?

23 A. Yes.

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~~DANIEL DERENDA~~

1 Q. Where tinted window tickets were issued, yes,
2 so it's not an average -- yeah. Among the
3 stops where tinted window tickets were issued,
4 the average is a little over three per stop.

5 A. Okay.

6 Q. Were you aware at the time that the tinted
7 window ticketing rate was increasing?

8 A. I was made aware of some point that some
9 officers were writing multiple tickets for
10 same vehicle at the same time which I am told
11 needed to end. They were just getting thrown
12 out of court anyway. If you're going to write
13 tinted window tickets it should be one ticket.

14 It didn't make sense to write multiple
15 tickets for different windows in my opinion
16 and I know they were being tossed out. I
17 don't know what year or what timeframe that
18 was, but I do recall something along those
19 lines.

20 Q. Well, does it look like from this chart that
21 you were successful in reducing the number of
22 tinted window tickets that were issued?

23 MR. QUINN: Form.

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~~DANIEL DERENDA~~

1 everybody's time.

2 I believe they were being thrown out of
3 court so, again, I don't know the facts behind
4 it and I don't recall totally.

5 Q. And why did the BPD issue so many tinted
6 window tickets?

7 MR. QUINN: Form.

8 A. I believe when they're -- okay. Let's go back
9 to -- and I don't know for a fact, but if the
10 directive says issue tickets, if you go back
11 if they're doing through checkpoints and the
12 directive says issue any and all, that could
13 be part of it or you might have certain
14 officers, specific officers that wrote the
15 majority of those tickets because that's what
16 they did.

17 I don't know. I don't know what those
18 numbers are.

19 Q. Did you ever look into the tinted windows
20 ticketing numbers when you were commissioner?

21 A. Not that I recall.

22 MR. QUINN: Form.

23 A. Possible, but I don't recall.

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~~DANIEL DERENDA~~

1 Q. Did you when you were commissioner of the BPD
2 have any written policy on tinted windows
3 ticketing?

4 A. I don't recall.

5 Q. I will mark as Derenda 21 a document that's
6 been identified as COB202653. And this is an
7 email sent by Jeff Rinaldo to you and others
8 on January 29th, 2016. Are you able to read
9 this okay?

10 A. I'm good. Have to squint a little bit. There
11 you go. Better.

12 Q. And is this the incident that you were
13 thinking of where it was mentioned that the
14 BTVA was writing off tickets and is this what
15 caused you to --

16 A. Possible.

17 MR. QUINN: Form.

18 A. Again, I do recall some incident happening or
19 seeing something. This could have been when
20 it --

21 Q. So you remember advising officers to only
22 write one ticket?

23 A. I believe if I received this email I would

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1 have spoken to the chiefs and everybody
2 involved and pointed it out that they're
3 wasting their time because it's all being
4 reduced. I'm sure I would have pointed it
5 out, but I don't recall specific.

6 Q. At the same time the officers would have
7 continued to feel an expectation to produce
8 numbers, correct?

9 MR. QUINN: Form.

10 A. They would feel an expectation to do their job
11 and be out there and be proactive.

12 Q. I'm going to mark as Derenda 22 a document
13 identified as COB027693 and this is a memo
14 signed by you at the bottom that went out to
15 chiefs, inspectors, captains, lieutenants and
16 the subject is equipment checkup date.

17 It directs officers to conduct window
18 tint inspections. Can you explain what that
19 means?

20 A. I don't recall this. It's a general order
21 that went out through the inspector's office.
22 Officers to immediately direct to conduct
23 equipment checks on vehicles at the districts

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 14th of November, 2021.

19 

20
21 _____
Rebecca Lynne DiBello, CSR, RPR
22
23

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10 Defendants.
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22 Rebecca L. DiBello, RPR, CSR(NY)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

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1 Q. Is an impound under those circumstances
2 consistent with the BPD policy on impounds?

3 MR. QUINN: Form.

4 A. I don't believe it is.

5 Q. Okay. Was Captain Roberts ever disciplined
6 for his role in impounding this vehicle?

7 A. I don't recall.

8 Q. Also in this document Captain Roberts states
9 Commissioner Derenda maintained a daily
10 running total of all statistics generated by
11 the unit including impounds and held me
12 personally responsible for the unit's
13 productivity in this area.

14 Did you hold Captain Roberts personally
15 responsible for the unit's productivity in
16 terms of impounds?

17 MR. QUINN: Form.

18 A. Productivity, period. Again, what gets
19 measured in my opinion gets done, so we looked
20 at the stats. We would compile the stats and
21 I held the captain, the chief and everybody
22 else accountable for those stats.

23 Q. And that would include their stats on

1 MR. QUINN: Form.

2 A. I don't believe so. There would be no reason
3 for that.

4 Q. This Exhibit I will mark as Derenda 31. This
5 contains documents that were produced to us
6 under subpoena by Erie County Central Police
7 Services. We've requested that BPS produce
8 materials used to train officers on enforcing
9 the Vehicle and Traffic Law from 2013 to the
10 present and this is part of what they've
11 produced to us and this is a copy of the
12 subpoena.

13 Here we have a page dated January 13,
14 2015.

15 MR. QUINN: This is the third page?

16 Q. This is the third page of the PDF. It is a
17 collection of PowerPoints, but it's dated
18 January 13th, 2015.

19 A. This is from Erie County, not from the Buffalo
20 Police Department, correct?

21 Q. Yes. This is from Erie County. The second --
22 sorry. Page 4 of the PDF is also a series of
23 PowerPoint slides. These are dated 7/18/2018.

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1 And then Page 5 of the PDF is an excerpt from
2 the basic course for police officers and it
3 has the number 3-G.3 at the top.

4 At the bottom it's labeled New York
5 State Division of Criminal Justice Services,
6 Office of Public Safety, copyright 2012, July
7 of 2012.

8 Are you familiar with any of these
9 documents?

10 A. I am not.

11 Q. Do you think you've seen them before?

12 A. Not that I recall.

13 Q. Do you have any reason to dispute these were
14 the materials that were used to train incoming
15 police recruits during the time that you were
16 commissioner?

17 A. Again, I have no knowledge if this was used or
18 not. If you're telling me it was, I'll
19 stipulate to that.

20 Q. Did you routinely review the course materials
21 that were provided to police recruits at the
22 training academy?

23 A. I did not.

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1 Q. And why didn't you?

2 A. Why didn't I? At the training academy -- we
3 have our own training academy within the BPD.
4 Whether they would review Erie County's law
5 enforcement training to train the police
6 officers I don't know, but they would be part
7 of it, but the commissioner of police to
8 review every lesson that went through the Erie
9 County Law Enforcement Training Academy would
10 be impossible given all the other tasks that
11 have to be done daily.

12 Q. You didn't think it was important to know how
13 your officers were being trained?

14 MR. QUINN: Object to the form. That's
15 pretty argumentative, but you can answer.

16 A. It's very important that the officers are
17 trained properly. Again, you have to --
18 they're the experts at the academy on
19 training, along with our academy, along with
20 New York State and other representatives.
21 I'll make the assumptions that they were
22 trained properly.

23 Q. Okay. I'll direct your attention to this box

1 that says reasons for vehicle and traffic
2 laws. And could you read for me reason number
3 four?

4 MR. QUINN: This is on Page 3, correct?

5 Q. Yes.

6 A. Number four says generate revenue.

7 Q. And this is the 2018 version of the training.
8 Under reasons for vehicle and traffic laws do
9 you agree that this also states that a reason
10 for vehicle and traffic laws is to generate
11 revenue?

12 A. That's what it states.

13 Q. And looking at the basic course for police
14 officers, do you agree that it says reasons
15 for vehicle and traffic laws include, number
16 four, revenue generating?

17 A. That's what it states.

18 Q. Do you sitting here today agree that
19 generating revenue is one of the reasons to
20 enforce vehicle and traffic laws?

21 A. I do not believe that's a reason to enforce
22 it. It did occur when people are given
23 summonses. It does generate revenue, but

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1 that's not a purpose -- should not be the
2 purpose of any law enforcement agency. It
3 should be to traffic safety and all of the
4 others.

5 Q. And was that also your belief while you were
6 the commissioner?

7 A. Yes. Again, generating revenue is not what
8 the police department -- it's not their job.
9 It does occur. However, again, you don't give
10 tickets just to generate revenue.

11 Q. And yet, all of your police recruits were
12 trained at the academy that one reason to
13 enforce vehicle and traffic laws is to
14 generate revenue.

15 A. You have to take that up with Erie County if
16 it's in fact how the officers were trained,
17 whether that would be Buffalo officers,
18 Amherst, all the other surrounding towns and
19 cities. Again, I don't believe that should be
20 there.

21 Q. Did you as commissioner ever do anything to
22 counter or correct this training?

23 MR. QUINN: Form.

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1 A. I don't believe I have ever seen this
2 training. If I did I seen it when I went
3 through the academy and I don't recall back in
4 1986.

5 Q. I will mark as Derenda 32 a P-73 prepared by
6 Patrick Roberts. It's dated January 10th,
7 2013. It's identified as COB063327.

8 Again, you received this memo, correct?

9 A. I mean, it goes on -- my name or commissioner
10 of police goes on every P-73. I can't say for
11 sure whether I received it or not, but
12 apparently I did through the email I just
13 looked at, yes.

14 Q. And I'll give you a minute to read it.

15 A. (Reading.) Okay.

16 Q. All right. In this memo Captain Roberts is
17 requesting that Housing Unit overtime be
18 allowed to continue, right?

19 A. He wants more overtime, correct, or continued,
20 yes.

21 Q. He says, the officers have shown great
22 production with regards to arrests/V&T
23 issuances and vehicle impounds more than

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1 traffic tickets?

2 MR. QUINN: Form.

3 A. What I believe took place, and I'm not sure
4 what year they were installed, but at one
5 point when I was on patrol going way back if
6 you wrote a traffic ticket you actually wrote
7 the traffic ticket. You wrote out a summons.

8 We changed to an automated system where
9 you now take your license, scan it. It
10 populates the tickets and with the press of a
11 button you fill, print, fill, print, so I
12 think there was a big increase.

13 So an officer that might write one or
14 two summonses now wrote more summonses because
15 it was easy to do so. He didn't have to
16 handwrite summonses, so I believe that was the
17 big reason for the increase.

18 Q. And would that have been related to when the
19 BPD converted to the TraCS system?

20 MR. QUINN: Form.

21 A. I think that's what it was called, but I'm not
22 100 percent sure. It switched whenever we
23 converted to the automated system. I don't

1 in traffic tickets coinciding with the launch
2 of the BTVA?

3 MR. QUINN: Form.

4 A. So it says June. When the speed limit was
5 lowered because of the child's death there
6 were 3,700 that month. I know that we had
7 details and we had them writing tickets on
8 that section of the Scajaquada everyday
9 because people were not obeying the 30 mile an
10 hour speed limit.

11 It could be that, but I don't recall the
12 situation of why there were more.

13 Q. Actually, I'll point out to you if we look up
14 to the paragraph that's appearing at the top
15 of the screen, it looks like they asked you
16 about stepped up traffic enforcement and you
17 said that the TraCS system came online in
18 2013.

19 A. Widespread use of new traffic and criminal
20 software system. Okay. That's apparently
21 what I said.

22 Q. So we're dating the use of the automated
23 system in 2013 so their automated symptom is

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1 make more money by working overtime and some
2 officers liked to work overtime. So you can
3 call it they did receive more pay for working
4 overtime.

5 Q. Does the email reflect a quid pro quo in which
6 officers are expected to produce results in
7 order to continue receiving overtime
8 opportunities?

9 MR. QUINN: Form.

10 A. Officers were always expected to produce
11 results whether it was on overtime details or
12 on straight time details, whether it was
13 Housing or Strike Force. Again, I expected
14 them to be out there doing their job.

15 Q. Was availability of overtime contingent on
16 producing results?

17 MR. QUINN: Form.

18 A. There were certain details on overtime that
19 were expected results. Again, if we wanted
20 people out there and to be proactive, if we
21 were paying for extra details on overtime, I
22 certainly expect them to be out there doing
23 their job.

1 Q. And some officers increased their salaries
2 considerably with overtime, didn't they?

3 MR. QUINN: Form.

4 A. Throughout the department, correct. I used
5 overtime whenever I needed and had to do it to
6 achieve my objectives.

7 Q. And working overtime also gave officers the
8 opportunity to increase their pensions, right?

9 A. Yes.

10 Q. Do you or did you as commissioner believe that
11 overtime is a reward for production?

12 MR. QUINN: Form.

13 A. I believed that when overtime was utilized
14 that they needed to produce, but I believed
15 they needed to produce whether it was on
16 straight time or overtime, whether it was the
17 homicide unit working overtime hours, whether
18 it was the narcotics unit, whether it was
19 traffic, Strike Force, overtime was utilized
20 across the board with the objective of
21 lowering crime throughout the city.

22 So again, we used a lot of overtime over
23 the years, but still maintained our budget.

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1 Would you agree that Captain Serafini is
2 communicating that the availability of
3 overtime is contingent on making the
4 production as expected of them?

5 A. From reading this I would say that he's saying
6 that unless you're out there doing your job
7 and being productive, that's what these
8 details are dependent upon. There would be no
9 purpose to have a detail to address issues,
10 and I don't know what issues specifically at
11 the time they were trying to address because I
12 don't recall, but if you're going to take a
13 detail and in particular if you're going to
14 pay somebody overtime on a detail you expect
15 them to be productive and out there doing
16 their job and those details are contingent
17 upon them doing their assigned tasks,
18 regardless of what it was.

19 Q. Moving up, I'm in this top paragraph here,
20 Captain Serafini says we are looking for
21 production in the form of arrests, summonses,
22 etcetera. Advise your officers to avoid
23 overkill on issuing of multiple traffic

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1 summonses for the same offense to one
2 motorist, meaning they should not be issuing
3 six separate traffic summons for window tints.
4 Two tint summonses per motorist is enough.

5 Do you think that this email is related
6 to the incident we discussed last time in
7 which you testified that you had told
8 subordinates not to issue multiple tinted
9 windows tickets for a single stop?

10 MR. QUINN: Form.

11 A. I don't know if this email relates to that. I
12 don't recall what years that was, but some
13 officers were writing multiple tickets on the
14 same vehicle for each window being tinted
15 which didn't make any sense because they'd all
16 get thrown out anyway.

17 Q. Right. And this is March 2017?

18 A. I don't recall specifically when I was made
19 aware of the issue and when I said something,
20 so I don't know if this is it or there are
21 other emails or discussions. I don't recall
22 the timeframe, but I know it did happen and we
23 did move to correct it.

1 Q. Your testimony last time was if you're going
2 to write tinted window tickets it should be
3 one ticket.

4 A. That's my opinion.

5 Q. Were you aware that Captain Serafini was
6 instructing officers to issue two tickets?

7 A. I don't recall seeing this email, but if he
8 instructed them to issue two tickets I still
9 believe when they went to the adjudication
10 bureau they would be knocked down to one or
11 something else.

12 Q. Why was Captain Serafini instructing officers
13 to write two tickets per incident if you said
14 that they should write one ticket per
15 incident?

16 A. I don't recall specific language to Captain
17 Serafini or anyone else. What I believe I
18 said in the context of multiple tickets should
19 not be written for tinted windows; you should
20 write one ticket. Now, I passed that on. So
21 why he's writing what he did, I guess you'd
22 have to ask him that.

23 Q. Did you ever take any specific steps to ensure

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1 that your instructions about not issuing
2 multiple tinted windows tickets in a single
3 stop were being followed?

4 A. I don't recall.

5 Q. If you had taken any steps would that be
6 documented in some way?

7 A. Again, I don't recall what I did, who I spoke
8 to. Might have been a conversation. I don't
9 recall, but it did come to me at some point
10 that they were running multiple tickets for
11 tinted windows and I probably addressed it at
12 a chief's meeting when they were all there,
13 what should be done and if they need to stop
14 whether it was Housing, Strike Force or
15 districts, that they needed to write just one
16 ticket based on -- probably based on a
17 complaint coming from traffic adjudication.

18 Q. You don't recall doing anything specific after
19 that to check to see if your instructions were
20 being followed?

21 A. I don't recall.

22 MS. WILNER: Okay. So it's 12:00 now.

23 I certainly have a full afternoon of materials

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1 A. Correct.

2 Q. Does the BPD have any written policies to
3 guide the officer's discretion in this area?

4 A. I don't recall if there was or there wasn't.

5 Q. So in the amended complaint that was filed in
6 this lawsuit it would be alleged that from
7 2012 to 2019 drivers from predominantly black
8 zip codes were eight times as likely to be
9 issued multiple tickets in a single stop than
10 drivers from predominantly white zip codes.

11 Do you have any reason to believe that
12 that allegation is incorrect?

13 MR. QUINN: Object to the form.

14 A. I don't have any reason to believe it's
15 correct or not correct. I haven't looked at
16 the numbers that I recall.

17 Q. What is your explanation for the racial
18 disparity in the issuance of multiple tickets?

19 MR. QUINN: Object to the form.

20 A. Again, each individual writes tickets for
21 whatever reason based on what is going on.
22 Were there roadblocks that they went through?
23 I don't know. I don't have an explanation.

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1 Q. Was it something you ever looked into?

2 A. Not that I recall.

3 Q. The amended complaint that was filed in this
4 action also alleges that from 2012 to 2019
5 61 percent of tinted windows tickets which is
6 just over half of all tinted windows tickets
7 were issued to drivers from the four most
8 heavily non white zip codes in Buffalo.

9 Do you have any reason to believe that
10 that allegation is incorrect?

11 A. Again, I don't know that to be true or not.

12 MR. QUINN: Object to the form.

13 Q. Do you have an explanation for the racial
14 disparity issuance of tinted windows tickets?

15 MR. QUINN: Object to the form.

16 A. I do not.

17 Q. I'm marking as Derenda 45 a document that's
18 COB263554. This is an email that
19 Councilmember Scanlon from South Buffalo sent
20 to you and copied Kimberly Beaty. I'll let
21 you take a look at it.

22 A. (Reading.) Can you scroll down please. Okay.

23 Q. So in the email Councilmember Scanlon who

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1 recall it.

2 Q. And scrolling down to this end of the exhibit,
3 this is the last date that we have. It's
4 July 2nd, 2014. You can see that in the later
5 times the designated Strike Force area that
6 you left the specific location of the
7 roadblock to be determined by the lieutenant.

8 MR. QUINN: Form.

9 A. Apparently.

10 Q. Do you have any reason to believe that after
11 this date of July 2nd, 2014 you continued to
12 personally specify roadblock locations?

13 A. I don't recall doing it. I don't recall doing
14 it in early years, but apparently I had some
15 input. I know at some point Lockwood took
16 over doing the assignments of the roadblocks.
17 I don't know what point that was.

18 Q. Okay. I want to look at the assignments that
19 you made in June, 2013. COB016023. And do
20 you see the references here to Juneteenth?

21 A. Where do you see Juneteenth? Gus Macker.

22 Q. Juneteenth is June 15th and June 13th.

23 A. Can you scroll down because I can only see 13.

1 My question is asking about the fact
2 that more than 80 percent of the checkpoints
3 were in black neighborhoods.

4 MR. QUINN: Object to the form.

5 A. If that's what your stats show, then that's
6 what they were.

7 Q. Did you specifically place checkpoints in
8 places where you wanted to have a highly
9 visible presence?

10 A. Again, going back to two reasons for the
11 checkpoints. Traffic safety and high
12 visibility. You wanted people to see them.
13 You wanted them to be there or wherever there
14 was or wherever we had issues with crime, so
15 if you had a checkpoint somewhere where you
16 had issues with shootings or burglaries,
17 again, with the police standing there it's
18 highly unlikely that these crimes would be
19 committed.

20 Q. You didn't set checkpoints in places where
21 there were a lot of accidents, right?

22 A. I don't believe I used accidents as a
23 criteria. It's possible we did, but I don't

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1 Q. And what about --

2 A. On the quality of life summons it would be a
3 lot of times issued to an address so that you
4 wouldn't know who lived there per se.

5 Q. Did you look at the distribution of where in
6 the City of Buffalo the quality of life
7 summonses were written?

8 A. At one point we had quality of life details in
9 every district so they were written in every
10 district, and quite aggressively in a lot of
11 cases.

12 Q. Did the BPD collect data on vehicle impounds
13 by the race of the driver?

14 A. Not that I recall.

15 Q. Or the race of the vehicle owner?

16 A. I don't recall that. I don't believe so.

17 Q. While you were commissioner did the BPD
18 collect data on misdemeanor arrests by race?

19 A. I'm sure that data could be run, but I don't
20 remember specifically seeing it.

21 Q. Did the BPD collect data on the race of
22 Internal Affairs complainants?

23 A. I'm sure that data could be found very easily

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1 if they decided to search it. I don't recall
2 them breaking it down, but it's possible they
3 did.

4 Q. Did the BPD collect data that looked at the
5 resolution of Internal Affairs complaints by
6 race of the complainant?

7 A. I know they collected data with the
8 resolution. I don't remember if they broke it
9 down by race of complainant.

10 Q. The uniform traffic ticket has a field for
11 entering the race of the person ticketed,
12 correct?

13 A. I don't know what it has on the computer and I
14 don't recall what it was when I used to
15 handwrite tickets. Possibly. Probably.
16 Well, maybe. I'm not sure. I'm not
17 100 percent sure.

18 Q. Okay. I'm going to mark as Derenda 49 a
19 document. I'm going to call it traffic ticket
20 quick guide because that's what it says on the
21 top left of the document and there is a big
22 stamp at the bottom, COB_Inc_00000119.

23 And this is a guide that accompanied the

1 it was important to be able to identify racial
2 disparities in the BPD's traffic enforcement
3 policy?

4 MR. QUINN: Form.

5 A. You're assuming there were racial disparities.
6 Again, I don't recall seeing those numbers so
7 I don't know how to answer your question.

8 Q. Did you ever ask to see those numbers?

9 A. I don't recall if I seen them, asked for them.
10 I just don't have that recollection.

11 Q. It wasn't something that occurred to you as
12 being important to look at?

13 MR. QUINN: Form.

14 A. It was something I don't recall being brought
15 up to me as being an issue.

16 Q. When you were the commissioner did you take
17 any affirmative steps to find out whether your
18 officers were engaging in racial profiling?

19 A. The steps that would have been taken would
20 have been based on complaints. I don't recall
21 what complaints, but that would have been
22 handled through Internal Affairs and at some
23 point I would have seen those complaints, so

1 usually an example of something reaching me as
2 a complaint would have been that somebody is
3 writing numerous tickets for one car for
4 tinted windows and we would address the issue
5 by stopping it or putting out through the
6 chiefs and putting out through the deputies to
7 stop it.

8 Again, if something was brought up as an
9 issue, we addressed it.

10 Q. You don't recall taking any affirmative steps
11 to look into the issue?

12 MR. QUINN: Form.

13 A. I don't recall if we had complaints and I
14 don't recall looking into it if we did.

15 Q. I'm going to mark this Derenda 50, a map of
16 checkpoints locations. This was a map that
17 was attached to the original complaint filed
18 in this case as Exhibit A to that complaint.
19 It shows the number of checkpoints run in the
20 City of Buffalo between January 2013 and
21 June 2017. It shows the racial composition of
22 neighborhoods and checkpoints.

23 It might be easier to see if I make it a

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1 A. Obviously sent it to Byron Lockwood who he was
2 overseeing the Strike Force Housing Unit at
3 the time, so he probably retrieved the data
4 and got it to the council at the workshop or
5 answered the questions at the workshop.

6 Q. So you believe that you did provide a log of
7 checkpoint locations as requested by the
8 council?

9 A. I don't recall if we did or we didn't. It was
10 sent to Lockwood probably to answer. I don't
11 know if he did or he didn't, but we would have
12 gone to a workshop after the meeting and they
13 would have had any follow-up questions that we
14 would have provided answers to.

15 Q. Did you provide the council with information
16 on criteria used to establish checkpoints?

17 A. I'm sure we did.

18 Q. Would that have been done verbally in these
19 follow-up meetings?

20 A. I believe it probably was done verbally, but
21 it might have been -- written stuff might have
22 been sent over, but I believe I would have
23 gave that to Lockwood to send over.

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1 Q. So you think if there was a written response
2 it would have been sent by Lockwood?

3 A. Yeah, I believe so. It's more likely we
4 responded verbally, but if there were sheets
5 of information he would have gotten the
6 information to pass it along.

7 Q. Does the BPD have a stop and frisk policy?

8 A. They didn't have a stop and frisk policy.

9 Q. I'm sorry. I didn't understand that.

10 A. We didn't have a stop and frisk policy. There
11 is a stop and frisk provision under the CPL
12 when you would pat somebody down for a weapon
13 or something if you felt threatened or what
14 have you, but there was no BPD stop and frisk
15 policy in place.

16 Q. Did you provide the summary of Strike Force
17 overtime pay that the council requested?

18 A. I don't recall if Lockwood provided it or not
19 or I did. I'm sure we would have answered
20 their questions. That information on payroll
21 could have come from Inspector Strano.

22 Q. And I will mark as Derenda 59 document
23 COB041705. And this is an email from Captain

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 8th of January, 2022.

19 

20 -----
21 Rebecca Lynne DiBello, CSR, RPR
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2023

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1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 CONTINUED

13 ORAL EXAMINATION OF DANIEL DERENDA

14 APPEARING REMOTELY FROM

15 BUFFALO, NEW YORK

16
17 January 10th, 2022

18 At 9:00 a.m.

19 Pursuant to notice

20
21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

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~~DANIEL DERENDA~~

1 A. Correct.

2 Q. And he had one past complaint for excessive
3 force, right?

4 A. Correct. August 11th. August 7th, 2011.

5 Q. And that was also resolved not sustained,
6 correct?

7 A. Correct.

8 Q. And then there were six other disciplinary
9 incidents, correct?

10 A. Correct.

11 Q. We have one that was pending. That's on --
12 one that was sustained?

13 A. Correct.

14 Q. And four that were either not sustained or
15 sent to conference?

16 A. There was one that was exonerated.

17 Q. Did you consider Mr. Cyrek's disciplinary
18 record when you reviewed Ms. Lucas' complaint?

19 A. We would have looked at it. Again, I don't
20 know the outcome of the last case against him
21 but, again, we looked at every case
22 individually and whether we could prove it or
23 not prove it would lead to sustained or not

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~~DANIEL DERENDA~~

1 sustained based on each and every case being
2 different.

3 As I said, many of these cases may have
4 had an initial complaint. We're looking at
5 two of them from the same day. Would have
6 been two different complaints, but I don't
7 know what took place with each case. I don't
8 know if the complainant followed up or would
9 followup, so a lot of times it would be left
10 as not sustained if the complainant totally
11 dropped out of the process.

12 Again, it's hard to tell from a sheet
13 what took place, but it's something we would
14 look at. We would look at his overall record
15 and, again, I still have to be able to prove
16 what was being said.

17 Q. So how would his past record figure into your
18 determination of what happened in Ms. Lucas'
19 case?

20 MR. QUINN: Form.

21 A. It wouldn't figure in because each case is
22 different that I would have to prove. Again,
23 I'm looking at all these. I see three

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 16th of January, 2022.

19 

20 -----
21 Rebecca Lynne DiBello, CSR, RPR
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2023

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